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Hon. Gabriel W. Gorenstein  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

January 20, 2021

RE: Joshua Adam Schulte v. Bureau of Prisons, et al,  
20-CV-2795 (P66)(GW6)

Honorable Judge Gorenstein:

I only just received your letter dated 12/2/20 today, 1/20/21. I have enclosed the envelope — as you will see, your letter was opened by the Bureau of Prisons and sent to the FBI as "General Correspondence for Special Mail Requirements pursuant to 28 C.F.R. 540.19". As I will outline here, the BOP and FBI are interfering by delaying and preventing mail from the courts from reaching me. You referenced an order dated June 29, 2020 (docket #9). I never received this order. In fact, I have not received most orders and letters from you or Judge Gardephe.

RIGHT TO ACCESS THE COURTS

I have a legal right to access the courts. You have the authority to compel the MCC and the FBI to stop delaying and preventing mail from reaching me. "Prisoners, like non-prisoners, have a constitutional right of

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access to the courts and to petition the government for the redress of grievances, and prison officials may not retaliate against prisoners for the exercise of that right." ~~Cohn v. Coughlin~~ Coughlin, 38 F.3d 865, 872 (2d Cir. 1995). I did not receive the 6/26/20 order of reference to a magistrate judge (Docket #7); I did not receive the 6/29/20 order dismissing my claims (Docket #9); I did not receive the 6/30/20 FRCP 4 SERVICE PACKAGE (Docket #10); and countless other orders and letters that I have no knowledge. I only know of these entries because I asked my family to print and mail me a copy of the docket — which I only recently received, and which only extends to 7/14/20. This mail did not reach me because the Special Administrative Measures placed upon me requires the FBI to read all mail sent to me to ensure that I don't mail out classified information by receiving mail which makes no sense. The FBI do not need to read mail sent from you or any court to ensure it doesn't contain classified information sent out by me. How am I supposed to litigate anything when I don't receive any mail from the courts? How am I supposed to make court deadlines when the mail I receive is delayed by 6 months? I renew my Motion (Docket #21) for an injunction to compel the MCC to deliver court correspondence from this court to me promptly upon receipt (by "Legal Mail" I mean mail from the courts and other legal entities, as distinct from personal mail from family), and without interference from the FBI. I have a right to access the courts, and this court has the authority to guarantee and ensure that right. I also ask this court to re-send all the orders and letters that I did not receive (which seems to be almost everything).

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If you doubt my claims here, then request the MCC to send you a record of mail receipt signed by me — all certified mail and court mail is logged by the MCC and signed by the prisoner upon receipt. You will clearly see no entries from you or Judge Cardoza.

## AMENDED COMPLAINT

I do not have the order from you requesting an amended complaint, but I will try to work through this problem anyway. If I must file something formal, then I request those documents. Note that if the Court does not enjoin the BOP and FBI from delaying and preventing me from receiving mail from this Court then it may take another 6 months before I receive anything — if ever.

In my complaint, I named the Bureau of Prisons as a defendant. My intention was that the United States of America should be substituted for the Bureau of Prisons under the Federal Tort Claims Act (FTCA). See *Rayover, Inc v. United States*, 352 U.S. 315 (1957) (Purpose of FTCA was to waive government's traditional all-encompassing immunity from tort actions and to establish novel and unprecedented governmental liability). Since the Bureau of Prisons is shielded by immunity, the FTCA substitutes the government agency with the federal government itself for civil suit. My allegations are that Bureau of Prisons officers physically assaulted me, tortured me in the extreme cold with no clothes, and otherwise caused serious bodily injury.



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I also intended to levy a Bivens v. Six Unknown Fed. Narcotics Agents, 403 US 388 (1971), action against each of the officers who conducted an unconstitutional search in violation of the Fourth Amendment by forcing me downstairs in the middle of the night into an x-ray despite no probable cause to do so and against the officers who violated my Eighth Amendment right to be free from cruel and unusual punishment. But, I have no idea who the officers are and need the video footage....

## COMPEL PRODUCTION OF VIDEO FOOTAGE OF THE INCIDENT

Finally, I renew my motion to compel the defendants to produce video footage of the incident — which they claim to possess. On September 18, 2020, I served the defendants via attorney Kirti Reddy a request under Fed. R. Civ. P. 34(b). Mrs. Reddy simply ignored my request. I then filed a motion pursuant to Fed. R. Civ. P. 37(c) for this Court to compel Mrs. Reddy to provide the video footage; I renew that motion:

All video and audio from Sunday, March 8, 2020 from midnight to noon of the plaintiff and all other SAMs inmates on the 10<sup>th</sup> floor of MCC NY; the video footage should include feeds from the 10S cells, the 10S unit, 9S, the 9<sup>th</sup> floor Sally Port, R4D, and all other locations that the plaintiff and other SAMs inmates were brought during the specified time.

Sincerely,

Josh Schulte, pro se

1/21/21

Josh Schulte

MEMORANDUM ENDORSEMENT


20cv2795 January 20, 2021 letter

Pursuant to the Court's Order of January 27, 2021, the Government was supposed to file a letter on the issue of mail delay by February 5, 2021. That deadline is now extended to February 19, 2021. The Government shall in that response address any issues raised in this letter as well.

The plaintiff is instructed to stop sending mail to Chambers. Any letter to the Court must be sent to: Pro Se Docketing, 500 Pearl Street, New York, NY 10007.

The Clerk is requested to mail a copy of this Order to plaintiff.

So Ordered.

  
GABRIEL W. GORENSTEIN  
United States Magistrate Judge  
February 4, 2021